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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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08/822,963 03/21/97 LIU

P ENZ-56

18NZ/0902

RONALD D FEDUS
ENZO THERAPEUTICS INC
C O ENZO BIOCHEM INC
527 MADISON AVENUE 9TH FLOOR
NEW YORK NY 10022

EXAMINER

ROBARRY, E

ART UNIT

PAPER NUMBER

1805

3

DATE MAILED:

05/02/97

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire _____ month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-67 is/are pending in the application.
- Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claims 1-67 are subject to restriction or election requirement.

Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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DETAILED ACTION

1. The drawing that were submitted with the instant application are not available to the examiner in the instant application. It is requested that a copy of the drawings be forwarded to the examiner in response to the instant Restriction.

Election/Restriction

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
- I. Claims 1-16 and 61-66, drawn to A viral vector comprising one or more native promoter/ enhancer regions in which at least one sequence has been modified, one or more non-native promoter/enhancers or a non-native promoter's gene or gene segment, and a native viral vector terminator or a processing signal of segment thereof and method of producing said vector, classifiable in class 435, subclasses 320.1.
 - II. Claims 17-35, drawn to a viral vector comprising a virus or viral portion having on a surface or an envelope thereof at least two components, one for adsorption to a packaging cell line and one for adsorption to a target cell, classifiable in class 435, subclass 320.1.

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- III. Claims 36-42, drawn to a vector comprising a sequence coding for a segment where said segment is capable of integrating into a target cells genome and further said vector is capable of introducing a first nucleic acid in said target cell, classifiable in class 435, subclass 320.1.
- IV. Claims 43-59, drawn to a vector which, when introduced into a packaging cell line, produce a second vector and a cell line therefore, classifiable in class 435, subclass 320.1.
- V. Claim 67, drawn to a packaging cell line for propagating a viral vector independent of a helper virus, classifiable in class 435, subclass 325.

3. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II and III and III and IV and V are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). The packaging cell line of Group V is independent of the vectors of Groups I-IV in that there is no apparent connection between these vectors and this packaging cell line in that there is no indication that this cell line would function to package any of these vectors. The vectors of Groups I-IV are independent of one another in that the vectors, as claimed, do not include nor require various component or properties recited in the respective claims. For example the vectors of Groups III and IV, in their broadest interpretation are not required to be viral vectors where the vectors of I and II are. Another example of this divergence and independence is

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that the vector of Group I contains at least one modified native promoter/enhancer, the vector of Group II requires component on the surface of a viral portion.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

5. A telephone call was made to Ronald Fedus on 8/22/97 to request an oral election to the above restriction requirement, but did not result in an election being made.

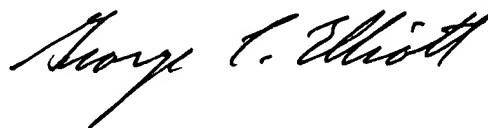
Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(h).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean McGarry whose telephone number is (703) 305-7028.

Sean McGarry

August 29, 1997



GEORGE C. ELLIOTT
SUPERVISORY PATENT EXAMINER
GROUP 1800